Remarks

Claims 1-30 are pending. With this response, claims 1 and 7-11 are amended and claims 21 and 26 are canceled. Upon entry of these amendments, claims 1-20, 22-25, and 27-30 remain pending.

The specification is amended to correct a typographical error.

Claim 1 is amended to simplify the claim. The amendments to claims 7-11 are discussed below.

Applicants request reconsideration and allowance of the application in view of the present amendments and following remarks.

Restriction Requirement

Claims 1-30 stand subject to Restriction under 35 U.S.C. §121.

Applicants affirm the election of group I, claims 1-20, 22-25, and 27-30, made by Applicants' Attorney, Dale A. Bjorkman, on April 15, 2004, during a telephonic discussion with the Examiner. This election is made without traverse to expedite prosecution.

Claim rejections under 35 USC §112

Claims 7-11 and 19 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite.

With respect to claims 7-10, the Office Action states:

> *[T]he term 'the resulting baked product' is unclear because it is not known what it is referring to. The preceding claims have not set forth any resulting baked product.*

Applicants amend claims 7-10 to describe that the recited dough composition is formulated such that, when baked to provide a baked dough product, the baked dough product has one or more certain characteristics/properties.

With respect to claim 11, the Office Action states that:

> *The product claimed is unclear because it is not known how the filling is structurally related to the dough composition.*

Applicants amend claim 11 to recite how the filling is structurally related to the dough composition portion of the dough product. Support for this amendment can be found in the specification as originally filed on, e.g., page 11, lines 12 and 13.

With respect to claim 19, the Office Action states:

What does applicant mean by "at least a partially unproofed state"; how can something be partially unproofed.

Applicants respectfully submit that the meaning of a dough composition that is in "at least a partially unproofed state" is well-known and readily understood by a skilled worker in the dough proofing arts. As noted in the specification at page 6, lines 19-26, an unproofed dough has sufficient unactivated leavening agent to at least double in volume when allowed to proof (or double in volume during baking in embodiments with no intermediate proofing step). Thus, a dough that is in "at least a partially unproofed state" would clearly be understood to have sufficient inactivated leavening agent to at least partially increase in volume.

Applicants respectfully submit that claims 7-11 and 19 are definite and fully comply with the requirements of 35 U.S.C. §112, second paragraph.

Accordingly, Applicants request that the rejection of claims 7-11 and 19 under 35 U.S.C. §112, second paragraph be withdrawn.

Claim rejections under 35 USC §103

Claims 1-20, 22-25 and 27-30 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Book et al. (U.S. Pat. No. 6,149,960) in view of Yamaguchi et al. (U.S. Pat. No. 4,664,932) and Laughlin et al. (U.S. Pat. No. 5,855,945).

The rejection is respectfully traversed because a *prima facie* case of obviousness has not been established due to the failure of Book et al. in view Yamaguchi et al. and Laughlin et al. to teach, motivate, or suggest preparation of a dough composition having 0.005 to 0.2 % by weight of propylene glycol alginate.

All pending claims require a "dough composition comprising ... 0.005 to 0.2 % by weight of propylene glycol alginate."

As acknowledged in the Office Action, the primary reference, Book et al., fails to disclose propylene glycol alginate (PGA).

The Office Action proposes to cure the deficiencies of Book et al. with respect to the PGA feature of claim 1 by citing the secondary reference, Yamaguchi et al., and stating:

> *When the improver of Yamaguchi et al. is added to the Book et al. dough, the dough will contain propylene glycol alginate and emulsifier and the amounts fall within the ranges claimed because Yamaguchi et al. teach to use 1-4% of the improver and the improver contains 2.5-25% emulsifier and 2-15% propylene glycol alginate.*

However, the Yamaguchi et al. dough composition allows a maximum of 0.004% of PGA by weight of total dough weight and, therefore, Yamaguchi et al. do not teach a dough composition having 0.005 to 0.2 % by weight of PGA. The details of this calculation are provided below.

In addition, Yamaguchi et al. specifically teach away from increasing the amount of PGA in their dough above the maximum of 0.004% by weight of total dough weight by stating that "if the amounts of polymeric substances are more than 15 parts by weight, the use of the present products is not preferable at the time of manufacturing bakery goods since the alteration of the dough-making process becomes necessary because of a drastic change of the amount of water absorption etc." Such a negative teaching is the antithesis of a motivation or suggestion to modify the Yamaguchi et al. reference to increase the amount of PGA in their dough.

Turning now to a more detailed discussion of the PGA content in a dough disclosed by the Yamaguchi et al. reference, Applicants calculations below show (A) the maximum amount of PGA in the Yamaguchi et al. improver and (B) the maximum amount of PGA in the Yamaguchi et al. dough comprising the maximum amount of such improver.

A. The maximum amount PGA in the Yamaguchi et al. improver.

First of all, Applicants disagree with the Office Action in the statement that Yamaguchi et al. teach the use of PGA in their improver in an amount of from 2-15% of total improver weight. Rather, Yamaguchi et al. disclose that their improver includes 2-15 parts by weight of PGA per 100 parts by weight of gluten. (See Yamaguchi et al. at col. 2, lines 24-31). Parts by weight per 100 parts by weight of gluten is not the same as weight percentage of total improver.

The difference in parts by weight versus weight percentage is important in the determination of amount of PGA permitted in the total composition.

Next, it is axiomatic that the maximum amount of PGA in the improver occurs when PGA is at its maximum variable amount, and the other improver components that can vary in amount are at their minimum. Yamaguchi et al. disclose that their improver includes (1) emulsifier in an amount of from "2.5 to 25 parts by weight ... per 100 parts by weight of gluten," (2) polymeric substances (e.g., PGA) in an amount of from "2 to 15 parts by weight per 100 parts by weight of initial wheat gluten," and (3) other ingredients in "amounts not more than 30 parts by weight to the wheat gluten." (See Yamaguchi et al. at col. 2, lines 15-45). Thus, the maximum amount of PGA in the Yamaguchi et al. improver occurs when the improver component ingredients are present in the following amounts: (1) emulsifier at 2.5 parts by weight per 100 parts by weight of gluten, (2) polymeric substances (e.g., PGA) at 15 parts by weight per 100 parts by weight of gluten, and (3) other ingredients at 30 parts by weight per 100 parts by weight of gluten. In weight percentage terms, the maximum amount of PGA in the improver is taught by Yamaguchi et al. to be 10% by weight of the total improver (which is calculated by dividing the 15 parts of PGA by the sum of: (15 parts PGA + 2.5 parts emulsifier + 100 parts gluten + 30 parts other ingredients)).

B. The maximum amount of PGA in the Yamaguchi et al. dough comprising the maximum amount of such improver.

Yamaguchi et al. teach that the maximum amount of their improver to be used in their doughs is 4% by total weight of the dough. Therefore, the maximum amount of PGA taught to be present in the Yamaguchi et al. doughs is 0.004% by total weight of the dough (which is calculated by multiplying the 10% of PGA in the improver by the 4% of the improver in the dough).

Laughlin et al. fail to cure the deficiencies of Book et al. or Yamaguchi et al. In brief, the Laughlin et al. reference relates to certain dough compositions including complementary leavening agents. (See Laughlin et al. at the Abstract). The Laughlin et al. reference does not disclose PGA. Indeed, the Office Action does not rely on the Laughlin et al. reference for teaching or suggesting the PGA feature of the claims.

Because none of the references, alone or in combination, teach, suggest, or motivate a skilled worker to include PGA in a dough composition in an amount from 0.005% to 0.2%, as required by all of the claims, a *prima facie* case of obviousness has not been established in the outstanding Office Action. Accordingly, Applicants respectfully request that the rejection of claim 1, and claims 2-20, 22-25 and 27-30 which depend from claim 1, under 35 U.S.C. §103(a) as being unpatentable over Book et al. in view of Yamaguchi et al. and Laughlin et al. be withdrawn.

Conclusion

In view of the above amendments and remarks, it is respectfully submitted that the claims and the present application are now in condition for allowance. Approval of the application and allowance of the claims is earnestly solicited. In the event that a phone conference between the Examiner and the Applicant's undersigned attorney would help resolve any remaining issues in the application, the Examiner is invited to contact said attorney at (651) 275-9831.

Respectfully Submitted,

Dated: July 22, 2004

By: _____

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